

1 open mind, and you shall neither discuss nor
2 decide any issue in this case among yourselves
3 until the case is submitted to you for your
4 deliberations under the instructions of the
5 Court. If members of your family or friends or
6 anyone else should ask you about the case, you
7 should tell them that you are under the Court's
8 instruction not to discuss it. When the trial is
9 over and your verdict rendered, you will then be
10 released from this instruction and you will then
11 be free to discuss the case and your experiences
12 as a juror if you so desire.

13 The attorneys, parties and witnesses are not
14 permitted to talk to you during the trial. Even
15 a discussion which has no relation to the case
16 might give a bad appearance. If the participants
17 in the trial fail to greet you or converse with
18 you during the course of the trial, it will be
19 due to this rule.

20 That concludes the Court's opening statement
21 of the procedure and the law to be followed in
22 this matter. We will now begin with opening
23 statements by the attorneys, first by Mr.
24 Landreau, then by Ms. Farrar.

25 Mr. Landreau?

1 MR. LANDREAU: May it please the Court, Ms.
2 Farrar, ladies and gentlemen of the jury. This
3 is not the time for lawyers to argue. What the
4 opening statements are about is to tell you what
5 we expect the evidence to be in this case.

6 Jerry Whitley, the Defendant, is charged
7 with three offenses. He is charged with
8 trafficking in methamphetamine; that is, that he
9 possessed either 28 grams or more of
10 methamphetamine or any mixture containing
11 methamphetamine. He is charged separately with
12 possessing some additional methamphetamine that
13 he had in a pocket, and he's charged with
14 resisting arrest. Here's what the evidence will
15 be.

16 On September 21st of last year, 2001, Agent
17 Jason Whitten, who is employed by the Phenix City
18 Police Department and assigned to the Metro
19 Narcotics Task Force, a unit which, as the name
20 applies, concentrates on drug offenses. Jason
21 received a phone call from a citizen, and he said
22 I want to give you some information. He said a
23 guy named Jerry Whitley is running a
24 methamphetamine lab in Rusk Trailer Park. This
25 caller said, look, I don't know the exact trailer

1 number, but here's a description of the trailer
2 and here's a description of some cars that are
3 parked in front of it. And the caller said and
4 oh, by the way, I think you need to know
5 Whitley's got surveillance cameras, closed
6 circuit television surveillance cameras set up so
7 he can see outside the trailer. He's got a bunch
8 of guns, and he's booby-trapped that trailer so
9 he can blow it up if the police show up.

10 You'll find that or the evidence will be
11 that Rusk Trailer Park is located just off
12 Highway 80. As the name implies, it's a place
13 where people have mobile homes. There are mobile
14 homes within 20 feet of either side of the
15 trailer Whitley was using. There's families,
16 there are children out there.

17 Jason Whitten, together with other officers
18 of Metro Narcotics Task Force, went out to Rusk
19 Drive back on September 21st to see if they could
20 verify this information they had been given.
21 Sure enough, they found a trailer that matches
22 the description. Sure enough, in the yard of
23 that trailer are the exact cars that the caller
24 indicated. So Agents Whitten, Price and Memmo
25 decide that they would just watch this trailer a

1 little while, see if there was anything unusual
2 going on.

3 Sat there for a little while. A guy came
4 out of the trailer by the name of Steve Moseson.
5 Agent Whitten walks up to Moseson, and the first
6 thing he notices, Moseson smells of ammonia and
7 ether. Now, you will learn today that ammonia
8 and ether are two key ingredients used in
9 manufacturing methamphetamine. Moseson was also
10 acting extremely nervous. Officer Whitten pats
11 him down and finds methamphetamine on Moseson,
12 and the evidence will be he was charged and that
13 case has been disposed of.

14 Officers then got a little concerned about
15 were we seen talking to Moseson, what's going on,
16 so they walk up to the door of the trailer and
17 they knock on the trailer door, and a woman named
18 Caylene White comes to the door, and the officers
19 say is there a Jerry Whitley here. Lo and
20 behold, this Defendant steps out of the trailer.

21 Now, by a remarkable coincidence, Whitley
22 knows one of the police officers, Sergeant Jim
23 Price. It turns out they grew up near one
24 another. They are familiar with each other and
25 known to each other. The minute Whitley sees

1 that, sees Jim Price and recognizes him, he tries
2 to run, and Jim Price grabs him. As they
3 struggle, Price notices that Whitley has a wrench
4 sticking out of his back pocket, so Sergeant
5 Price grabs the wrench to keep Whitley from using
6 it. When he pulls the wrench out of Whitley's
7 pocket, a bag of methamphetamine falls out of
8 Whitley's pocket. That's the possession charge.

9 When that happens, Whitley starts screaming
10 at the woman to blow it up, do it, blow it up.
11 So Agent Whitten grabs Caylene White and gets her
12 out of the trailer. Remember, the trailer is
13 supposed to be booby-trapped. When that happens,
14 Whitley starts screaming to someone else, Wayne,
15 do it, blow it up, do it, blow it up. So another
16 agent rushes into the trailer. There is another
17 person in that trailer, a gentleman by the name
18 of Wayne Meadows. They get Meadows out. They
19 get a search warrant and they go back in. Let me
20 tell you what they found.

21 First thing, this trailer, which is a
22 single-wide trailer, rented trailer, has
23 surveillance cameras and closed circuit T.V.'s
24 hooked up. The cameras are pointed out so you
25 can see somebody coming up, so you can see the

1 roadway. It's got police scanners in it with
2 Russell County's radio frequency and Phenix
3 City's radio frequency so they can listen to the
4 police. It's got -- there's guns everywhere. A
5 22 rifle, a 308 rifle, a 357 pistol, a
6 Derringer. They're all over the house. A
7 crossbow even. There are tanks of oxygen and
8 nitrogen and other things there, and that's just
9 in the living room.

10 When you start moving to the kitchen, there
11 are coffee filters and cold tablet boxes
12 everywhere. You'll find out that one of the ways
13 or the way you make methamphetamine, you take
14 common cold capsules, you dissolve them so that
15 you can get the active ingredient called
16 ephedrine out of it, filter that through coffee
17 filters, take that active ingredient, combine it
18 with some more chemicals and create meth.

19 There are coffee filters. We expect the
20 evidence to be those filters show traces of
21 meth. There were the cold tablets that were
22 used. There were bottles and bottles of liquids
23 in there. You will hear from the lab. The lab
24 will tell you that some of those bottles
25 contained ephedrine, the precursor to

1 methamphetamine. 10,000 or, excuse me, eight
2 thousand grams of the predecessor. Two of the
3 jars contained a liquid that has methamphetamine
4 in it, a total of 2000 grams. For those of you
5 who are not into the metric system, that's over
6 four pounds of liquid containing
7 methamphetamine.

8 They found a booby-trap. It turned out
9 there's a fishing line that runs from the door
10 across the ceiling back to the back where there's
11 a candle tied to this line. Underneath the
12 candle is a vat of flammable fluids. The concept
13 was light the candle, pull the line as you go
14 out, it falls over and blows the trailer up. You
15 will hear from Wayne Meadows. He will tell you
16 there were flammable liquids soaking all around
17 the lab and that he presumed when Whitley was
18 screaming blow it, he meant light a match to it,
19 burn it down, burn the evidence up.

20 Ladies and gentlemen, you will hear that
21 after being arrested, Mr. Whitley tells an
22 officer, look, my life's over because of this,
23 but I want you to know I meant for them to pour
24 all the meth down. When I was screaming blow it
25 up, I meant for them to pour the meth. I didn't

1 really mean for him to blow y'all up. Yep.

2 Ladies and gentlemen, after you hear the
3 evidence, there will be no question in your mind
4 that this man is guilty of each and every crime
5 that he's accused of.

6 THE COURT: Ms. Farrar?

7 MS. FARRAR: On behalf of my client, Jerry
8 Whitley, I want to really thank y'all for serving
9 this week and thank you for being here. This is
10 a very important day for my client, for Jerry.
11 He's charged with three crimes: The trafficking
12 crime, trafficking in methamphetamine, possession
13 of methamphetamine, and resisting arrest. Those
14 are all very serious charges, and Mr. Landreau
15 has spoken to you about what he hopes to prove
16 today by introducing witnesses, certain evidence
17 that might be in the form of perhaps a video or
18 photographs. There might be some chemicals that
19 are brought into the courtroom, and there will
20 probably be testimony from a scientist today. I
21 expect that there would be.

22 I want y'all to remember, and I'm sure you
23 know, that the evidence is what you consider, not
24 what I say, not what Buster Landreau says. The
25 Judge will instruct you on the law. The Judge

1 will instruct you that it is your job to
2 determine what the facts are in this case, in
3 these three cases, and they're all wrapped up
4 into one fact situation. But you're going to be
5 hearing from several individuals. You're going
6 to be listening to Buster. I might object, but
7 our objections shouldn't really throw you either
8 way. What's important is whether the Judge rules
9 that their answer is going to go into evidence or
10 not, and that's what you need to pay attention
11 to.

12 I like to be nice. I'm a female raised in
13 the South, and sometimes it's hard for me to
14 object. I don't want people to not like me, so
15 sometimes I seem like -- I know I seem like I
16 come across kind of funny, and it may just be my
17 self-consciousness, but four or five years of
18 doing this I've gotten used to just going ahead
19 and doing my job and not worrying about if I'm
20 interrupting someone. You know, all my life my
21 parents would say don't interrupt when people are
22 talking. Well, I have to interrupt all day every
23 day.

24 I wanted to tell you a little bit about
25 Jerry. He was raised in Columbus. He did go to

1 school with Agent Price. He's a mechanic, and he
2 is divorced and has two daughters. He works on
3 cars sometimes right now, and he has had very
4 good jobs where he has been employed in larger
5 cities and major projects. And Jerry's charged
6 with a serious crime today, and my job is to make
7 sure that the law is followed. My job is to
8 represent him to the very best of my ability, and
9 I would ask that you please take this very, very
10 seriously and also use a reason to approach to
11 listen to the evidence.

12 Decide what you believe. Decide what sounds
13 reasonable. And a reasonable person, if they
14 have a doubt about a guilt of either of these
15 three crimes, well, that doubt is a reasonable
16 doubt. And how do you come up with whether it's
17 a reasonable doubt? Well, use your common sense,
18 and I believe that will be in Judge Greene's
19 instructions to the jury that common sense is
20 just from living day-to-day. We just all have
21 picked it up. And sometimes I don't use my
22 common sense, but today I'm asking for you to use
23 your common sense.

24 It's very important for you to just sort out
25 what you see to be the facts and ask yourself is

1 this reasonable. Does my common sense tell me
2 something's wrong here. And then if something's
3 wrong with the facts, if they don't all go
4 together right, then ask yourself why, what's
5 missing.

6 Now, the statute trafficking in
7 methamphetamine, it does require a minimum weight
8 of a controlled substance of 28 grams, so you
9 would need to be satisfied from the evidence that
10 there was that much found on September 21st of
11 2001. Possession doesn't require a minimum
12 amount of drugs. The scientists that the State
13 will --

14 MR. LANDREAU: Your Honor, I'm sorry to
15 interrupt, but I object on the grounds that we're
16 into argument now instead of showing what the
17 evidence will be.

18 THE COURT: All right. If you would -- I'm
19 going to allow her to have a very limited
20 explanation to the jury at this point.

21 MS. FARRAR: Okay. That was really all I
22 was going to say, Your Honor.

23 THE COURT: All right.

24 MS. FARRAR: At any rate, I just want to go
25 through levels of proof, and I was here on

1 Monday. Many of you remember when the attorney,
2 Mr. Adams, was explaining about the grand jury
3 process. People are indicted based on probable
4 cause. This is a higher level of proof, a higher
5 standard of proof. The State doesn't only have
6 to prove probable cause. They have to prove this
7 crime was committed by this person beyond a
8 reasonable doubt, and that's a very high level of
9 proof.

10 But the other side of that is that coming
11 into the courtroom, my client is wearing a cloak
12 of innocence, and that cloak of innocence stays
13 on him throughout the trial, and I'm asking you
14 to keep that in mind as you listen to the
15 evidence.

16 This case basically is about a narcotics
17 raid. We have a Metro Narcotics Task Force that
18 is made up of law enforcement from Harris County,
19 Columbus, Phenix City, Russell County, and that's
20 what happened that day. And the police officers,
21 when you hear them speak, I will be
22 cross-examining them and they will have an
23 opportunity to tell you what they see as the
24 facts, but just keep in mind that a person may
25 possibly be mistaken about facts, and just try to

1 sort out what you hear today. Focus on Jerry's
2 case, make a decision only on what's in the
3 evidence.

4 And before you leave today, I just want to
5 thank you in advance. I know we've got a day
6 ahead of us. It's a rainy, cold day. I
7 appreciate you coming. My client, Jerry, has
8 very, very important rights, the right to a trial
9 by a jury, a right to have the State prove its
10 case. And I would ask you to look at the
11 evidence with all the scrutiny that Jerry
12 deserves, and that's all I have right now. Thank
13 you, Your Honor.

14 THE COURT: Ladies and gentlemen, that would
15 conclude the opening statements. Who would the
16 State call as its first witness?

17 MR. LANDREAU: Call Chris McKinstry.

18 CHRIS MCKINSTRY

19 was sworn and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. LANDREAU:

22 Q Tell us your full name, please, sir?

23 A Christopher Scott McKinstry.

24 Q And where do you work, Mr. McKinstry?

25 A The Monarch Company.

1 Q Are you affiliated in any way with Rusk Trailer
2 Park?

3 A Yes, sir.

4 Q And what is that affiliation?

5 A I own the park.

6 Q You own Rusk Trailer Park?

7 A Yes.

8 Q Did you own it back in September of last year?

9 A Yes.

10 Q Are you familiar with a gentleman by the name of
11 Jerry Whitley?

12 A I know he was a resident there, yes.

13 Q Do you see Mr. Whitley in the courtroom?

14 A Yes, I do.

15 Q Would you point him out to us?

16 A In the blue shirt.

17 Q What lot did he live at; was that 29?

18 A Number 29.

19 Q And he was the owner or he was the resident at
20 that trailer?

21 A He was the resident, yes, sir.

22 Q To your knowledge, was he the sole resident?

23 A To my knowledge, yes.

24 Q And where is Rusk Trailer Park located?

25 A It's on Highway 80 West.

1 Q Out in the Ladonia area?

2 A It's in the Ladonia area.

3 Q How many mobile homes are in that park?

4 A 34.

5 Q And, on average, how far apart are the mobile
6 homes?

7 A 10 or 15 feet, on average.

8 Q Are there families that live there?

9 A Yes.

10 Q Are there small children present in that park?

11 A Yes.

12 Q Ms. Farrar may have some questions for you.

13 CROSS-EXAMINATION

14 BY MS. FARRAR:

15 Q Who actually -- withdraw that. Do you know
16 whether Jerry rented the trailer directly from
17 the trailer park or whether it might have been
18 subleased?

19 A It was subleased.

20 Q Who was the individual, if you know, from whom
21 Jerry rented the trailer?

22 A Steve Holton.

23 MS. FARRAR: That's all, Your Honor.

24 MR. LANDREAU: Your Honor, may this witness
25 be excused?

1 THE COURT: Yes, he may. Who is your next
2 witness?

3 MR. LANDREAU: Jody Williford. Chris, I
4 appreciate you coming. You're free to go.

5 THE WITNESS: All right.

6 (Brief pause.)

7 JODY WILLIFORD

8 was sworn and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. LANDREAU:

11 Q State your full name, please, sir?

12 A Jody Williford.

13 Q Where are you employed, Mr. Williford?

14 A I'm employed with the Russell County Sheriff's
15 Department assigned to Metro Narcotics.

16 Q And Metro Narcotics, what is their primary area
17 of focus or crimes that they focus on?

18 A Drug activity.

19 Q Now, do you have any duties dealing with the
20 transportation of evidence?

21 A Yes. I'm the drug custodian for both Alabama
22 agents.

23 Q And when did you join Metro, by the way?

24 A October of 2001.

25 Q Now, with that duty of transporting the drugs to

1 the lab, would that include returning them back?

2 A Yes, it would.

3 Q Have you went to the lab and got some drugs that
4 have been analyzed for them in this case?

5 A Yes, sir, I have.

6 Q Do you have those with you?

7 A Yes, sir, I do.

8 Q I'm going to mark this as State's Exhibit 1 for
9 purposes of identification. Mr. Williford, when
10 did you pick up those drugs?

11 A January 31st of 2002.

12 Q And where have they been since then?

13 A Stored in my evidence locker at the Russell
14 County Sheriff's Department.

15 Q Does anyone else have access to that evidence
16 locker?

17 A I'm the only one that has access to it.

18 Q Since you got the drugs from the lab, have you
19 changed or altered the drugs in any way?

20 A No, sir, I have not.

21 Q Have you added anything to it or taken anything
22 from it?

23 A No, sir.

24 Q Are they in substantially the same condition
25 today as when you picked them up?

1 A Yes, sir, they are.

2 Q Ms. Farrar may have some questions.

3 MS. FARRAR: That's all I have. I don't
4 have any questions, Your Honor.

5 THE COURT: May this witness be excused?

6 MR. LANDREAU: Yes, Your Honor.

7 THE COURT: Who's your next witness?

8 MR. LANDREAU: Call Agent Jim Price.

9 JIM PRICE

10 was sworn and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. LANDREAU:

13 Q Tell us your full name, please, sir?

14 A James H. Price, III.

15 Q Where are you employed, Mr. Price?

16 A I'm currently employed with the Harris County
17 Sheriff's Department.

18 Q In Harris County, Georgia?

19 A Yes, sir.

20 Q And where are you assigned or what duties are you
21 assigned?

22 A I'm currently assigned to the Metro Narcotics
23 Task Force.

24 Q Could you briefly tell us what the Metro
25 Narcotics Task Force is?

1 A It's a multi-jurisdictional task force comprised
2 of several different police agencies, like Harris
3 County, Muscogee County, Columbus Police
4 Department, Russell County and Phenix City Police
5 Department.

6 Q Now, what's your rank or position within the task
7 force?

8 A I'm a sergeant.

9 Q And is that a supervisory position?

10 A Yes, sir, it is.

11 Q Let me ask you, are you familiar with a Jerry
12 Whitley?

13 A Yes, sir, I am.

14 Q You see Mr. Whitley in the courtroom today?

15 A Yes, sir, I do.

16 Q How long have you known Mr. Whitley?

17 A I've known --

18 MS. FARRAR: Objection, relevance, Your
19 Honor.

20 MR. LANDREAU: Just as to his ability to
21 identify.

22 THE COURT: Overrule the objection.

23 Q How long?

24 A At least 20 plus years.

25 Q Were y'all relatives at one time or not

1 relatives, but were you living relatively close
2 to each other at some point?

3 A Yes, sir. He used to live on the street behind
4 my mother's house.

5 Q Is that when y'all were growing up?

6 A Yes, sir.

7 Q Back on September 21st of 2001, did you have an
8 occasion to go to Rusk Trailer Park as part of an
9 investigation?

10 A Yes, sir, I did.

11 Q And what prompted you to go there?

12 A We had received information from a confidential
13 informant that Mr. Whitley was --

14 MS. FARRAR: Objection, hearsay.

15 MR. LANDREAU: It's not offered for the
16 truth of the matter, Your Honor, but simply to
17 explain why the officers went there.

18 THE COURT: Court will sustain the objection
19 in part and overrule the objection in part.
20 Ladies and gentlemen of the jury, this officer
21 has been asked a question in which he has
22 received information from someone else and was
23 told something, and that is what's known as
24 hearsay evidence where you're quoting what
25 somebody else said, and that's normally not

1 allowed into evidence. However, I'm going to
2 allow the officer to answer the question in this
3 matter not to prove the truth of the matter
4 asserted that what was told him is actually true,
5 but just to show that he received this
6 information and as a consequence he acted upon
7 that information. You may proceed.

8 Q What did the informant tell you?

9 A The informant stated that Mr. Whitley was cooking
10 methamphetamine at his trailer at Rusk Trailer
11 Park.

12 Q Now, did the informant give you an address?

13 A No, sir.

14 Q What information -- how were you going to
15 identify the right trailer?

16 A Well, he provided us with --

17 MS. FARRAR: Objection again, Your Honor,
18 hearsay.

19 THE COURT: It will be the same ruling.
20 It's not -- I'm going to allow it in, but not to
21 prove the truth of the matter asserted.

22 MS. FARRAR: May I have a continuing
23 objection, Your Honor?

24 THE COURT: Yes, you may.

25 Q How were you going to identify the trailer when

1 you got there?

2 A The informant had provided descriptions of
3 vehicles that were located at the trailer. Also,
4 a few weeks prior to this, we had set up on the
5 same trailer.

6 Q Were you provided with any other information
7 concerning the contents or physical layout of
8 this trailer?

9 A We were told that the trailer that Mr. Whitley
10 was cooking in was supposed to be booby-trapped.
11 It was also supposed to have video surveillance
12 cameras.

13 Q Now, do you recall what time of day or night on
14 the 21st that y'all got out to Rusk Trailer Park?

15 A It was approximately around five p.m.

16 Q And let me ask you, is Rusk Trailer Park, is that
17 a trailer park that has multiple streets in it,
18 or what is the street layout?

19 A The best of my recollection, it's just straight
20 in. It goes all the way to like a dead end. You
21 have to turn around and come back out.

22 Q So it's one lane in and one lane out?

23 A Yes, sir.

24 Q And are there trailers throughout that?

25 A Yes, sir, there are.

1 Q Were you looking for a trailer that matched the
2 description that the informant had given you?

3 A That's correct.

4 Q Did you locate one?

5 A Yes, sir, we did.

6 Q And were you also looking for a trailer that had
7 vehicles in front of it that matched what the
8 informant --

9 MS. FARRAR: Objection, leading.

10 THE COURT: I'll sustain the objection.

11 Q Let me ask you, were you looking for anything in
12 front of the trailer to confirm the
13 identification of it?

14 A We were told that there was supposed to be a
15 truck parked in front of it with Texas plates.

16 Q The trailer that y'all eventually began to watch,
17 did it have a truck in front of it?

18 A Yes, sir, it did.

19 MS. FARRAR: Objection, leading.

20 THE COURT: Sustain the objection.

21 Q What type of plates?

22 A It had Texas plates.

23 Q Now, you said we set up and started watching
24 this?

25 A That's correct.

1 Q Who is we?

2 A It was myself, Agent Whitten, and Agent Memmo.

3 Q Are those agents all members of law enforcement?

4 A Yes, sir.

5 Q What happened next, Jim?

6 A We set up on surveillance for probably around 10
7 minutes, I'm going to go with approximately maybe
8 10 minutes, and we saw the trailer door open and
9 a subject walk out towards the red pickup truck.

10 Q Were you later able to identify that subject?

11 A Yes, sir.

12 Q Who was it?

13 A His name was Steve Moseson. I'm not sure if I'm
14 pronouncing it right, but it was Moseson.

15 Q And when this Steve Moseson came out of the
16 trailer, what did y'all do, being law
17 enforcement?

18 A We exited our vehicles and walked up to Mr.
19 Moseson and identified ourselves.

20 Q Who specifically spoke to Mr. Moseson?

21 A I think it was Agent Whitten.

22 Q Then what happened?

23 A He was acting real nervous. He kept looking over
24 his shoulder back at the trailer, and we smelled
25 a strong chemical odor on his person, so at that

1 time we placed him in cuffs for officer safety
2 and conducted a pat-down.

3 Q You said he had a strong chemical odor on his
4 person?

5 A Yes, sir.

6 Q Were you able to identify the chemicals?

7 A It smelled like ether and ammonia.

8 Q Have you received any training or specialized
9 training in the identification of drug --
10 methamphetamine laboratories?

11 A Yes, sir. I've been to two schools on
12 clandestine methamphetamine labs.

13 Q Based on your training and experience, does
14 ammonia have any role in the manufacture of
15 methamphetamine?

16 A They use many different solvents to break down in
17 the --

18 MS. FARRAR: Objection, not answering the
19 question.

20 THE COURT: Sustain the objection.

21 Q Is ammonia used in the manufacture --

22 A It can be.

23 Q -- of methamphetamine?

24 A Yes, sir, it can be.

25 Q What about either?

1 A Yes, sir.

2 Q And you smelled ammonia and ether on Mr. Moseson?

3 A That's correct.

4 Q You said y'all conducted a pat-down search?

5 A That's correct.

6 Q Was anything found during this search?

7 A Yes, sir. Agent Whitten removed a small plastic
8 bag from Mr. Moseson's pocket that contained a
9 quantity of suspected methamphetamine.

10 Q Was Moseson arrested?

11 A He was placed in handcuffs prior to the pat-down
12 for officer safety, and he was arrested at that
13 time.

14 Q What did y'all do next?

15 A At that time we sat Mr. Moseson down and we went
16 to the trailer.

17 Q What was your purpose in going to the trailer?

18 A To see if Mr. Whitley was actually in the
19 trailer.

20 Q How did y'all go about doing that?

21 MS. FARRAR: Objection, assumes facts not in
22 evidence. There's been no testimony of Mr.
23 Whitley owning the trailer or that they knew Mr.
24 Whitley owned the trailer.

25 MR. LANDREAU: Judge, I believe his answer

1 was that he went to the door to see if Mr.
2 Whitley was there.

3 THE COURT: Well, I'll allow you to ask him
4 what he did next.

5 Q Let's kind of backtrack. Y'all searched Moseson,
6 you found the meth. What did you do next?

7 A We sat Mr. Moseson down in a chair. At that time
8 myself and Agent Whitten went to the front door.
9 I sent Agent Memmo to the back door, and I
10 knocked on the door.

11 Q Did somebody answer the door?

12 A Yes, sir.

13 Q Who answered the door?

14 A A lady later identified as Caylene White.

15 Q And when she answered the door, what did y'all do
16 next?

17 A I asked Ms. White if Jerry Whitley was in the
18 trailer.

19 Q And then what happened?

20 A She said yes, and at that time Mr. Whitley
21 appeared at the door.

22 Q Did he step out of the door, or did he remain in
23 the trailer?

24 A He stepped -- he was in the door and came out.
25 He saw me. He said hey, Jim. I said hey, Jerry,

1 I need to talk to you. He stepped down the
2 stairs, and at that time he turned back to Ms.
3 White and said set it off. And he tried to -- he
4 had a big wrench in his front right pocket which
5 I removed. It was about maybe a foot to
6 foot-and-a-half long, and I removed it from his
7 pocket.

8 Q So you asked for Jerry Whitley, he comes to the
9 door?

10 A That's correct.

11 Q He says hey, Jim?

12 A Yes, sir.

13 Q And then he turns to --

14 A Ms. White.

15 Q And says what?

16 A Set it off.

17 Q How did you react to that when he said set it
18 off?

19 A I reached -- first thing I did, I reached and
20 grabbed -- he had a long crescent wrench in his
21 front pocket. He also had another one in his
22 back pocket. I pulled the long one out of his
23 front right pocket and when I did, a bag of meth
24 came out. I then grabbed him by the arms, and he
25 started trying to run in place yelling the whole

1 time set it off, Caylene, set it off, you know
2 what you got to do.

3 Q Well, what did Officer Whitten who was with you
4 do?

5 A He went to the front -- well, we were at the
6 front door. He went and started talking to Ms.
7 White and told her to step out. Well, at that
8 time she started backing into the trailer. I
9 then cuffed Mr. Whitley.

10 Q He was struggling during that time?

11 A He was trying to run the whole time.

12 Q He was trying to run away from you?

13 A Yes, sir.

14 Q Well, after Agent Whitten got Ms. White, did the
15 Defendant say anything else?

16 A He kept screaming blow it up, set it off, set it
17 off. And about that time Agent Memmo had come
18 around to assist us at the front door, and they
19 cuffed Ms. White. And then Mr. Whitley started
20 yelling Wayne, set it off, Wayne, set it off,
21 blow it up.

22 Q So Whitley first tells Caylene White to blow it
23 up, and after y'all cuff her, he starts yelling
24 for somebody named Wayne?

25 A That's correct.

1 Q What did the agents do then?

2 A At that time they set Ms. White in a chair that
3 was outside the door of the trailer. They gained
4 entry. I heard a brief struggle. I stayed out
5 with Mr. Whitley, and I had to hold onto Mr.
6 Whitley. He kept trying to run. I had to
7 actually lay him down on the back of a car that
8 was parked up under the carport, and he still
9 struggled with me. Ms. White, we had no further
10 trouble with her. She sat in the chair next to
11 Mr. Moseson. And I heard a brief struggle in the
12 trailer, and then they came out with the subject
13 later identified as Wayne Meadows.

14 Q So there was somebody named Wayne in the trailer?

15 A That's correct.

16 Q Now, Sergeant Price, you said you got some
17 marijuana that fell out of Mr. Whitley's pocket?

18 A Some methamphetamine.

19 Q Methamphetamine, I'm sorry. I want you to take a
20 look at State's Exhibit 1 and ask if you can
21 identify that?

22 A Yes, sir. There's a large plastic bag in here
23 that contains a quantity of methamphetamine.

24 Q Is that the methamphetamine you retrieved or got
25 after it fell out of Mr. Whitley's pocket?

1 A Yes, sir.

2 Q And what did you do with it?

3 A After everybody was secured, I turned all
4 evidence over to Agent Whitten.

5 Q From the time you recovered it from Mr. Whitley
6 until the time you gave it to Agent Whitten, did
7 you change or alter it in any way?

8 A No, sir.

9 Q Add anything to it or subtract anything from it?

10 A No, sir.

11 Q Was Exhibit 1 in essentially or substantially the
12 same condition when you gave it to Agent Whitten
13 as when you got it from Mr. Whitley?

14 A The only difference is there is a piece of tape
15 on it, I think, with a crime lab number now.

16 Q Other than that, it's identical?

17 A Yes, sir.

18 Q Let me ask you, after y'all got everything
19 settled down, after you got all these people
20 secured, did y'all obtain a search warrant or any
21 authority to search this trailer?

22 A Agent Whitten obtained a search warrant for the
23 residence.

24 Q Were any drugs or evidence of drug activity found
25 inside the trailer?

1 A There were all kinds of chemicals used to cook
2 methamphetamine. After they had the subjects
3 placed outside the trailer, I actually -- they
4 couldn't stay inside more than a few seconds.
5 When they came out, they were gasping for breath
6 after they went in after Mr. Meadows.

7 Q That's your agents?

8 A Yes. Then I went in because I didn't know if
9 anybody else was in there. As soon as I got into
10 the kitchen area, my eyes just shut because of
11 the chemicals. And I tried to open the rear door
12 right by the kitchen, and it was screwed shut
13 with metal screws we found out later. I tried to
14 kick it open just to ventilate, and I couldn't
15 stay in there. I couldn't breathe anymore. I
16 came out, my eyes were teared up. And then we
17 secured, and then Agent Whitten went and got a
18 search warrant.

19 Q You said the chemicals were the reason you
20 couldn't stay in there?

21 A You couldn't breathe.

22 Q Could you identify any particular smell of any
23 particular chemical?

24 A It was a strong ether and ammonia smell.

25 Q Same smell as on Moseson when he came out?

1 A That's correct.

2 Q Okay.

3 A But a lot stronger.

4 Q Now, who actually collected the evidence inside
5 the trailer?

6 A We had to contact the DEA clean-up crew, and we
7 also contacted the Alabama Department of Forensic
8 Sciences. And Sherwin Boswell and an assistant
9 came out, and I believe they did the actual
10 collections.

11 Q Let me ask you, after this, after y'all had
12 secured Mr. Whitley, did Mr. Whitley ever say
13 anything to you?

14 A The whole time he just kept saying --

15 Q Hang on. Just yes or no first?

16 A Yes. Yes, he did.

17 Q Now, was this in response to you questioning, or
18 was this something he just said?

19 A No. He was just rambling, just rambling on.

20 Q And what did he say to you, Jim?

21 A He kept saying his life was over.

22 Q Did he say why?

23 A That he had messed up.

24 Q Did he make any statements concerning the blowing
25 up of the trailer?

1 A No, not that I recall. All he kept saying was
2 over and over my life is over, my life is over.

3 Q Ms. Farrar may have some questions.

4 CROSS-EXAMINATION

5 BY MS. FARRAR:

6 Q You testified that two weeks prior, you had set
7 up on the same trailer. Would that be a
8 surveillance you were referring to?

9 A Yes, ma'am.

10 Q And did you also have a confidential informant
11 call you at that time?

12 A Yes, ma'am, we did.

13 Q Who was that confidential informant two weeks
14 prior?

15 MR. LANDREAU: Object, Your Honor. That's
16 not discoverable in this.

17 THE COURT: I will sustain the objection.

18 Q Two weeks prior when you received a call from an
19 informant concerning a trailer belonging to Jerry
20 Whitley, had you ever heard from that person
21 before?

22 A That person had provided information before, yes,
23 ma'am.

24 Q Had the information that that person had
25 previously provided turned out to be reliable

1 information?

2 A Yes, ma'am.

3 Q And when the person called, did you personally
4 speak to that person, the two weeks prior?

5 A No. I received that from another agent that was
6 working that informant.

7 Q And who was that agent?

8 A That was Agent Mike Loyless.

9 Q You said Mike Loyless was working that informant?

10 A He was working the informant that provided him
11 that information.

12 Q What do you mean by working the informant?

13 A By producing cases for us, giving us information.

14 Q Was this a way for the informant to work off a
15 charge?

16 A I believe the informant did have a case on him.

17 Q And this isn't really unusual for Metro, is it,
18 that an informant might be avoiding prosecution
19 by helping Metro?

20 A They provide information. We can't make them any
21 promises on what they get through the D.A.'s
22 office, but yes, a lot of time they'll come and
23 try to get help for themselves.

24 Q And this was one of those cases, wasn't it?

25 A Yes, ma'am.

1 Q Now, the case that we're talking about now on the
2 21st of September, was the information that you
3 received that day from this same person from two
4 weeks prior?

5 A No, ma'am.

6 Q The informant from the 21st of September, was
7 that individual also working off a charge?

8 A I believe Agent Whitten took that information. I
9 have no idea who that person is.

10 Q So you don't have any idea about the reliability
11 of the informant from the 21st of September; is
12 that right?

13 A I believe Agent Whitten received the information
14 from another police officer who passed it onto
15 Agent Whitten. I don't know all the details.

16 Q When you went to the place where Jerry lived and
17 there was a Texas plate on a truck, do you recall
18 if there was a hood open on any of the vehicles
19 in the yard?

20 A I think there was a Camaro in the yard that had
21 the hood up. I'm not sure. It was either a
22 Camaro or another vehicle, maybe a Nissan. I'm
23 not sure.

24 Q Is it possible maybe there were two vehicles with
25 the hoods up?

1 A I don't recall.

2 Q Now, you stated Caylene White was led out of the
3 trailer. Was she gasping for air?

4 A No.

5 Q And was Jerry gasping for air?

6 A No, ma'am.

7 Q And Steve Moseson, he didn't seem like he was
8 overcome with fumes either, did he?

9 A No, ma'am. We've learned in the clandestine meth
10 labs --

11 MS. FARRAR: Objection, asked and answered.

12 THE COURT: All right.

13 MS. FARRAR: That's all I have of this
14 witness. Thank you.

15 THE WITNESS: You're welcome.

16 REDIRECT EXAMINATION

17 BY MR. LANDREAU:

18 Q You've raided other labs; is that correct?

19 A Several, yes, sir.

20 Q Is it unusual for the people who are running the
21 labs to be more acclimated to these chemicals
22 than you are?

23 A Yes, sir.

24 MR. LANDREAU: No further.

25 MS. FARRAR: No more, Your Honor.

1 THE COURT: May this witness be excused?

2 MR. LANDREAU: Yes, Your Honor.

3 THE COURT: All right, ladies and
4 gentlemen. It's about 10 minutes to 12. It's
5 probably a good time to break for lunch. I'll
6 excuse you to 1:15. Please report back to the
7 jury room by 1:15. Mr. Mitchell will be in the
8 hallway and direct you which jury room to report
9 to, and we hope to promptly resume the trial at
10 1:15. Thank you. Do not discuss the case, nor
11 allow it to be discussed in your presence.

12 (Lunch recess.)

13 (Jury present.)

14 THE COURT: Welcome back, ladies and
15 gentlemen of the jury. Thank you for being
16 prompt, and we will resume trial of the case.

17 Who would the State call as its next
18 witness?

19 MR. LANDREAU: Melissa Kelly.

20 MELISSA KELLY

21 was sworn and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. LANDREAU:

24 Q State your full name, please, ma'am?

25 A Melissa Marie Kelly.

1 Q Where are you employed, Ms. Kelly?

2 A The Alabama Department of Forensic Sciences.

3 Q And, physically, where do you work?

4 A I work in the Auburn laboratory.

5 Q And what is your job there?

6 A I am a forensic scientist in the drug chemistry
7 section.

8 Q What training or education do you have for that
9 job?

10 A I received a Bachelor's of Science in chemistry
11 from Clemson University. I received a Master's
12 of Education from Boston College, and I'm
13 currently completing a Master's of Chemistry from
14 California State University. I attended and
15 graduated from the drug chemistry training center
16 in Jacksonville, Alabama, and have also had
17 additional training at the Auburn laboratory.

18 Q Would it be fair to say that your job consists of
19 analyzing substances to determine if there are
20 illegal narcotics present?

21 A Yes.

22 Q And how long have you been doing that job?

23 A A little over two-and-a-half years.

24 Q And during that time, do you have a judgment as
25 to how many substances you have analyzed, how

1 many separate pieces of evidence?

2 A Over 3,000.

3 Q And have you testified as an expert witness in
4 other jurisdictions in this state?

5 A Yes, I have.

6 Q Have you testified in this court as an expert?

7 A Yes, I have.

8 MR. LANDREAU: Your Honor, at this time we
9 tender Ms. Kelly as an expert witness in her
10 field.

11 THE COURT: She may be allowed to testify as
12 an expert witness.

13 Q Ms. Kelly, let me show you State's Exhibit 1.
14 Are you familiar with it?

15 A Yes, I am.

16 Q Within that exhibit there is an item that I think
17 has a lab number, number one, which is identified
18 as substances taken from the person Jerry
19 Whitley. Are you familiar with that item?

20 A May I open this up?

21 Q Yes, you may.

22 (Brief pause.)

23 A Yes.

24 Q Have you at some point had that item which I'm
25 going to mark as State's Exhibit 1A in your

1 possession?

2 A Yes, I did.

3 Q And when and where did you receive it?

4 A I received it at the Auburn laboratory on October
5 3rd, 2001.

6 Q And from whom did you receive it?

7 A From Jason Whitten.

8 Q Ms. Kelly, were you requested to do anything with
9 regards to State's Exhibit 1A?

10 A Drug analyses.

11 Q And tell me how you do that.

12 A The first thing I do is I weigh the sample. I
13 perform a color test of inquiry and then multiple
14 instrumental analyses.

15 Q What was the weight of this particular sample?

16 A This sample weighed 1.94 grams.

17 Q And what type of tests did you perform on it, or
18 what specific tests did you perform on this
19 substance?

20 A I performed a color test of inquiry. I also used
21 two instrumentations, the infrared
22 spectrophotometer and the gas chromatograph mass
23 spectrometer.

24 Q Did you perform those tests with the intent of
25 trying to determine if there were any illegal

1 narcotics in Exhibit 1A?

2 A Yes, I did.

3 Q And based on your tests and your experience and
4 training, did you form an opinion as to whether
5 or not there were?

6 A Yes, I did.

7 Q And what is that opinion, please, ma'am?

8 A That there was methamphetamine in the sample.

9 Q Now, is methamphetamine a controlled substance
10 under Alabama law?

11 A Yes, it is.

12 Q Do you know what the effect of methamphetamine on
13 the body is?

14 A There are numerous effects.

15 Q And what are they?

16 A Some people take it and can stay up 48, 36 hours
17 straight, jittery, loss of appetite. I know
18 there are more. I just can't remember all of
19 them.

20 Q Does it affect the thought processes in any way?

21 A I'm honestly not sure.

22 Q But based on your experience and training, that
23 is, in fact, methamphetamine in Exhibit 1A?

24 A Yes.

25 Q Ms. Farrar may have some questions for you.

1 MS. FARRAR: No, Your Honor. No questions.

2 MR. LANDREAU: Judge, if I may, there are a
3 couple of questions I need to ask her.

4 THE COURT: All right.

5 Q (By Mr. Landreau:) From the time you received
6 these items from Mr. Whitten until you performed
7 the tests on them, did you change or alter
8 Exhibit 1A in any way?

9 A No, I did not.

10 Q When you performed the tests, was it in the same
11 condition as when you received it from Agent
12 Whitten?

13 A Yes, it was.

14 Q And afterwards, what did you -- after you
15 finished your tests, what did you do with the
16 substance?

17 A I put it back in the bag, sealed it up, initialed
18 the seal and put it in our evidence return room.

19 Q Did you change or alter it at any time during
20 that process?

21 A No, I did not.

22 Q So it was in substantially the same condition
23 when you tested it as when you received it and
24 then in the same condition when you returned it
25 back to the Metro Narcotics people?

1 A Yes, it was.

2 MR. LANDREAU: No further questions.

3 THE COURT: All right. May this witness be
4 excused?

5 MR. LANDREAU: Yes, Your Honor.

6 THE COURT: Who is the State's next
7 witness?

8 MR. LANDREAU: Sherwin Boswell.

9 SHERWIN BOSWELL

10 was sworn and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. LANDREAU:

13 Q State your full name, please, sir? Your full
14 name, please, sir?

15 A My name is Sherwin Keith Boswell.

16 Q Where are you employed, Mr. Boswell?

17 A I am employed with the Alabama Department of
18 Forensic Sciences, Auburn laboratory.

19 Q And what is your position with that laboratory?

20 A My position there is the laboratory director and
21 section chief of the drug chemistry section.

22 Q So you're in charge of the entire laboratory?

23 A Yes, I am.

24 Q And, specifically, you're also over the drug
25 testing part of it?

1 A That's correct.

2 Q And what is your education and background as far
3 as drug testing is concerned?

4 A My education background includes a B.S. Degree in
5 biology with a minor in chemistry and math. I've
6 taken additional chemistry courses at Auburn
7 University. I've attended numerous seminars,
8 lectures and classes on identification of
9 controlled substances. I was trained directly by
10 the drug chemist coordinator for our department.
11 I have worked numerous cases. I've testified
12 numerous times in different forms of court of
13 law.

14 MR. LANDREAU: Your Honor, at this time we
15 offer Mr. Boswell as an expert witness.

16 THE COURT: All right. You may qualify him
17 as an expert or have met the qualification to do
18 so. Thank you.

19 Q Mr. Boswell, have you received any specific
20 training in the area of methamphetamine
21 laboratories?

22 A Yes, I have.

23 Q What is that training?

24 A I have spent a week up in the DEA clan lab school
25 up in Quantico, Virginia.

1 Q What's the DEA?

2 A That's the Drug Enforcement Administration.

3 Q And what was your training geared towards, Mr.
4 Boswell?

5 A My training was geared toward going out,
6 processing illegal laboratories that could be set
7 up anywhere in the state. Also being able to go
8 in and collect evidence and process that
9 evidence.

10 Q And is that something you do on a regular basis?

11 A I wouldn't say on a regular basis, but we've done
12 it enough.

13 Q Would you go to the scene where the lab is
14 located and collect evidence there, or would it
15 be brought to you some way?

16 A We will go to the scene.

17 Q Briefly, Mr. Boswell, can you describe how
18 methamphetamine is made?

19 A Yes, I can. The first thing that -- first
20 ingredient that you would need would be the
21 pseudoephedrine tablets which are your common
22 cold tablets. Normally, they would take those
23 tablets, soak them in some type of chemical
24 solution which could be methanol or acetone or an
25 alcohol or even in some cases water. Once they

1 have done that, the drugs that are found in the
2 pseudoephedrine tablets is the pseudoephedrine.
3 So once it's soaked in the tablet, the drug will
4 usually leave from the tablet and go into the
5 liquid.

6 Once they have done that, then they will dry
7 that liquid down which usually gives them like a
8 paste or I guess you could say more like a
9 residue or a bunch -- a lot of powder. And from
10 that powder they will place it in another
11 container, they will take Lithium strips from
12 your regular Lithium type batteries, place that
13 in the solution and then they would add ammonia
14 to it.

15 As these three reagents or these three
16 chemicals come together, a chemical reaction
17 takes place, and actually what's happening the
18 pseudoephedrine is now being transferred or
19 changed over to methamphetamine in the base
20 form.

21 From that -- usually, they will add a little
22 water to make sure that all the Lithium has
23 reacted or has dissolved or has -- well, has
24 reacted. Once they have done that, then they
25 will take another chemical, usually diethyl ether

1 which can usually be found at Wal-Mart or in some
2 of the -- I guess what you would say the starting
3 fluids or the stuff that you may see a mechanic
4 use to spray in the engine to get it started.
5 They will take some of that, soak that solution
6 in there, then they will filter that out, and
7 from that ether solution you will have your
8 methamphetamine in the base form.

9 Once they've done that, then they would take
10 what we call a gas generator which is usually
11 made from sulfuric acid and regular table salt.
12 You mix that together and that will form
13 hydrochloric acid. And they will take this
14 generator, and they'll run it from the generator
15 into that ether solution which will cause the
16 methamphetamine base to convert to
17 methamphetamine hydrochloride. Once that will
18 happen, then they will dry that solution down,
19 thus giving you methamphetamine hydrochloride.

20 Q Is there any danger in this process?

21 A Yes, there is.

22 Q What is that danger?

23 A First of all, the chemicals being used are very
24 high explosive and very toxic.

25 Q They're explosive and toxic?

1 A Yes, they are.

2 Q Mr. Boswell, back on September 21st of last year,
3 were you requested to go to 29 Rusk Drive
4 concerning a methamphetamine lab?

5 A Yes, we were.

6 Q And that location, is that in Russell County?

7 A Yes, it is.

8 Q Now, do you recall what time of day or night you
9 got to that location?

10 A We arrived at the scene at 8:59 p.m.

11 Q And were you or did you collect some evidence
12 there?

13 A Yes, I did.

14 Q And have you brought that evidence with you
15 today?

16 A Yes, I did.

17 Q And has the evidence been with you since
18 September 21st of 2001 until today?

19 A Yes, it has.

20 Q Has it been under your exclusive control?

21 A Yes, it has.

22 Q Have you changed or altered the items you seized
23 in evidence in any way?

24 A Yes, I have.

25 Q And how is that?